IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3956 OF 2006

Mrs. Kusum Yogeshchandra Shah & anr. .. Petitioners.

Vs.

Rajnikant Vallabhdas Shah & anr. ..Respondents.

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Mr. J.J. Thakkar for the Petitioners.
Mr. N.P. Bhavsar with Mr. C.N. Potdar for the Respondents.

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CORAM: DR. D.Y. CHANDRACHUD, J.

19th June, 2006.

P.C. :

1. The competent authority in an application under Section 24 of the Maharashtra Rent Control Act, 1999 allowed an application for the issuance of witness summons in terms of clauses (a), (b), (d) and (e) of the application moved by the Petitioners. Prayer clauses (a) and (b) are to the following effect :

> "(a) This Hon'ble Court be pleased to allow me to examine the document examiner Mr. Haresh Gajjar having his office at Examiner Press Bldg., 35, Dalal Street, Fort, Mumbai 400 001 and to issue witness summons to him and to appear before this Hon'ble Court and this Hon'ble Court should be pleased to take the specimen signatures of Kusum Y. Shah and myself in

presence of the court and in presence of opposite Advocate and Applicant and also in presence of document examiner and the said document examiner Mr. Haresh Gajjar be allowed to bring the equipments necessary for carrying out the examination of the documents and to allow me to lead his evidence as my witness.

(b) This Hon'ble Court be pleased to issue witness summons to Mr. Haresh Gajjar having his office at Examiner Press Bldg., 35, Dalal Street, Fort, Mumbai 400 001."

2. It appears that when the handwriting expert presented himself for taking photographs of the documents, he was not permitted to do so and accordingly an application was filed on 7th April, 2006. That application was dismissed by the impugned order dated 4th May, 2006. There is no reason why the competent authority should not permit the handwriting expert to take photographs and to examine the documents which are in the custody of the competent authority. Counsel appearing for the Petitioners states that the handwriting expert shall do so in the premises of the competent authority and in the presence of an officer nominated by the competent authority. The Respondents will also be at liberty to keep a representative present. In the circumstances, this Petition is disposed of by setting aside the impugned order dated 4th May, 2006 of the competent authority

and with the following directions :

i) The handwriting expert, Shri. Haresh Gajjar shall be permitted to examine (i) the leave and licence agreement dated 23rd February, 2000 and (ii) the Vakalatnama dated 31st July, 2001 signed by Respondent Nos.1 and 2 before the competent authority and the specimen signatures lying in the custody of the competent authority. For the purposes of the examination, the handwriting expert will be at liberty to bring the necessary equipments for carrying out the examination of the aforesaid documents within the premises of the competent authority;

ii) The parties shall appear before the competent authority for the aforesaid purpose on 23rd June, 2006 at 12 noon and the entire process shall be completed on or before 3.00 p.m. on the said date. The report of the handwriting expert, if any, shall be filed before the competent authority within a period of one week thereafter.

The Petition is accordingly disposed of.